

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-cv-1087

\$88,029.08, MORE OR LESS,  
IN UNITED STATES CURRENCY,

Defendant.

(Katherine Anne Hoover, M.D. and  
John F. Tomasic;  
No pending federal criminal charges)

UNITED STATES RESPONSE TO "NOTICE TO THE COURT"  
AND FURTHER SUPPLEMENTAL RESPONSE TO  
"MOTION TO COMPEL AUSA PULLIN TO SUBMIT FORM SF 3881  
TO UNITED STATES MARSHAL TO RETURN \$27,671.50  
AS ORDERED AND TO FILE SANCTIONS AGAINST AUSA PULLIN"

Comes now the United States of America, by counsel, Betty A. Pullin, Assistant United States Attorney for the Southern District of West Virginia, and responds to claimants' "Notice to the Court" (Doc. 116), and further supplements its responses (Doc. 114, 115) to claimants' motion to compel (Doc. 113), as follows:

1. Claimants have filed a document entitled "Notice to the Court" with an attached letter directed to Chief Deputy United States Marshal Timothy Goode in which claimants allege that they sent Form USM-3881 to counsel for the United States and that counsel for the United States has "refused" to send the form to the

United States Marshals Service. (Doc. 116). To the extent claimants are alleging misconduct on behalf of government counsel, the United States objects and advises the court and the parties of the following:

(A) The United States Marshals Service for the Southern District of West Virginia transmits payments from its Seized Asset Deposit Fund, such as the one ordered by the court in this case, by electronic funds transfer.

(B) Such electronic funds transfers cannot be processed without compliance with the Debt Collection Improvement Act (DCIA), 31 U.S.C. § 3716, and the Treasury Offset Program (TOP).

(C) To effect a transfer from the Seized Asset Deposit Fund requires the transmittal of a completed Form USM-3881 to the United States Marshals Service Headquarters in Washington, DC. Once USMS HQ's processes the Form in compliance with the DCIA and TOP, it notifies the United States Marshals Service for the Southern District of West Virginia to electronically transfer the monies, or remaining balance thereof after any offset, to the parties designated on the Form.

(D) The Department of Justice has established certain guidelines for its agencies to follow in processing Form USM-3881, which provide in pertinent part the following:

**Judicial Forfeitures** - If the case ... is a judicial forfeiture, the U.S. Attorney's Office (USAO) is responsible for collecting the SSN or TIN and the banking information of the claimant/defendant at the end of the case using the ACH form. It is the responsibility of the U.S. Attorney's Office to fax (or email) the ACH form to the USMS (headquarters) ..."

Both the United States Attorney's Office and the United States Marshals Service are agencies within the Department of Justice (DOJ) and are subject to these guidelines. The action taken by the United States Attorney's Office on August 18, 2011 (Doc. 99) by forwarding the Form USM-3881 to claimants for completion was in compliance with DOJ guidelines. The United States will make the guidelines available to the court for in camera inspection if the court so desires.

2. Subsequent to the government's filing its motion for sanctions against Dr. Hoover on September 1, 2011 (Doc. 104, 105), the United States Attorney's Office received the completed Form USM-3881 from claimants on Tuesday, September 6, 2011.

3. The United States Marshals Service (locally) has informed the United States Attorney's Office that generally there is a two-day turn-around in processing the Form, that is, once the government transmits the Form to the USMS HQ's, it is quite possible that the USMS HQ's will direct the local USMS Office to electronically transfer the funds, or remaining balance thereof, to claimants in accordance with the Form, within two days.

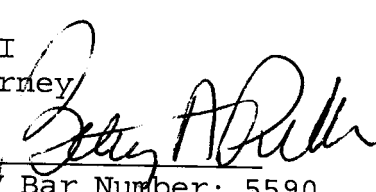
4. On September 9, 2011, the United States filed a motion seeking authorization for a brief delay in releasing the funds to claimants until the court rules on the motion for sanctions (Doc. 109). Should the court grant the United States motion for monetary sanctions (Doc. 104, 105) and agree to offset such sanctions against the monies to be returned to claimants, it is necessary that those monies be available to the court for that purpose.

WHEREFORE, for the foregoing reasons and for those stated in its motion for a brief delay (Doc. 109) and supplemental response (Doc. 115), the United States respectfully requests the court to authorize a delay in releasing the funds to claimants until the court has ruled on the government's motion for sanctions (Doc. 104, 105).

Respectfully submitted,

UNITED STATES OF AMERICA  
By Counsel

R. BOOTH GOODWIN II  
United States Attorney

By: s/Betty A. Pullin   
Betty A. Pullin, WV Bar Number: 5590  
Attorney for the United States  
United States Attorney's Office  
300 Virginia Street, East, Room 4000  
Charleston, West Virginia 25301  
Telephone: (304) 345-2200  
Fax: (304) 347-5440  
Email: [betty.pullin@usdoj.gov](mailto:betty.pullin@usdoj.gov)

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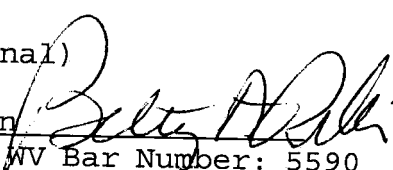
Defendant.

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CERTIFICATE OF SERVICE

I hereby certify that the "UNITED STATES RESPONSE TO 'NOTICE TO THE COURT' AND SUPPLEMENTAL RESPONSE TO 'MOTION TO COMPEL AUSA PULLIN TO SUBMIT FORM SF 3881 TO UNITED STATES MARSHAL TO RETURN \$27,671.50 AS ORDERED AND TO FILE SANCTIONS AGAINST AUSA PULLIN'" was electronically filed with the Court and served on the following this 28th day of September, 2011:

Katherine Anne Hoover, M.D. and  
John F. Tomasic  
c/o Norman Gay, M.D.  
247 West Bay Street  
Nassau, N.P. Bahamas  
(via Federal Express International)

By: s/Betty A. Pullin   
Betty A. Pullin, WV Bar Number: 5590  
United States Attorney's Office  
300 Virginia Street, East, Room 4000  
Charleston, West Virginia 25301  
Telephone: (304) 345-2200  
Fax: (304) 347-5440  
Email: betty.pullin@usdoj.gov